

### REMARKS

Claims 1-6, 50-58, and 75-80 are pending in this Application. In the Office Action mailed March 9, 2004, the Examiner:

1. Objected to Claim 5, lines 7-8, Claim 75, lines 5-6, and Claims 56-59 as containing new matter under 35 U.S.C. § 132;
2. Rejected Claims 5, 55, 56-59, 75, and 80 as containing new matter under 35 U.S.C. § 112, first paragraph;
3. Rejected Claim 6 as being indefinite under 35 U.S.C. § 112, second paragraph; and
4. Rejected Claims 75, 76 and 80 as being anticipated by Yasui et al. in light of Darnell under 35 U.S.C. § 102(b).

Applicants address the basis for each of the Examiner's objections and rejections below.

#### ***Claims Objections under 35 U.S.C. 132 - Claims 5, 75, and 56-59***

The Examiner objected to Claim 5, lines 7-8, Claim 75, lines 5-6, and Claims 56-59 as containing new matter under 35 U.S.C. 132. Without admitting agreement with the rejection, Applicants respectfully request withdrawal of Claims 5, 75, and 56-59. In addition, withdrawal of Claims 50-51 is respectfully requested.

#### ***Claims Rejections under 35 U.S.C. 112, first paragraph - Claims 5, 55, 56-59, 75, and 80***

The Examiner rejected Claims 5, 55-59, 75, and 80 as containing subject matter not described in the specification under 35 U.S.C. 112, second paragraph. Without admitting agreement with the rejection, Applicants respectfully request withdrawal of Claims 5, 55-59, 75 and 80.

#### ***Claims Rejection under 35 U.S.C. 112, second paragraph – Claim 6***

The Examiner rejected Claim 6 as being indefinite under 35 U.S.C. 112. Applicants respectfully request withdrawal of Claim 6.

***Claims Rejections under 35 U.S.C. 102(b) – Claims 75, 76 and 80***

The Examiner rejected Claims 75, 76 and 80 as being anticipated by Yasui et al. in light of Darnell under 35 U.S.C. § 102(b). Without admitting agreement with the rejection, Applicants respectfully request withdrawal of Claims 75, 76 and 80.

Applicants respectfully submit herewith new Claims 81-93 for consideration. New Claims 81-93 find support throughout the Specification. Additional support for Claims 85-88 may be found in the originally filed claims, which are read as part of the original disclosure and hence teach the invention. MPEP § 608. Examples of such claims are provided below (see pages 49-50 and 55-56).

5. A eukaryotic virus pseudo-nucleocapsid comprising:  
at least a portion of a viral capsid polypeptide; and

a polynucleotide, wherein said viral capsid polypeptide and polynucleotide together participate in formation of a generally spheroid pseudo-nucleocapsid in vitro.

6. The virus pseudo-nucleocapsid of claim 5, *wherein said viral capsid polypeptide is a flavivirus capsid polypeptide.*

20. A genetic construct comprising:

a hepatitis C virus gene wherein said construct directs recombinant expression in a transformed eukaryotic host cell of at least one hepatitis C virus epitope by self-assembly of hepatitis C virus capsids comprising a capsid polypeptide, wherein said capsid polypeptide is characterized as having the amino acid sequence encoded by the amino acid sequence of SEQ ID NO.:1.

24. The construct of claim 20, *further comprising an insect cell vector, and wherein said host cell is an insect cell host.*

25. The construct of claim 24, *wherein said insect cell vector is a baculovirus vector and said insect cell host comprises a Sf-9 insect cell.*

26. The construct of claim 20, *further comprising a mammalian cell vector, and wherein said host cell comprises a mammalian cell host.*

28. The construct of claim 20, *further comprising a yeast cell vector, and wherein said host cell comprises a yeast cell host.*

*[Emphasis added]*

### CONCLUSION

In light of the Amendments and Remarks presented above, Applicants respectfully submit that the claims of the Application are in condition for allowance. Applicants respectfully request consideration for and allowance of new Claims 81-93 and request a timely Notice of Allowance be issued in this case


It is believed that no additional fees are due at this time. If this is incorrect, Applicants hereby authorize the Commissioner to charge any fees, other than the issue fee, to Deposit Account No. 07-0153.

The Examiner is invited to call the undersigned if it appears that such communication would advance the current application to issue.

Dated this 8th day of July 2004.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

  
\_\_\_\_\_  
Thomas C. Wright  
Registration No. 47,189

ATTORNEY FOR APPLICANTS

1601 Elm Street, Suite 3000  
Dallas, Texas 75201  
(214) 999-4914 - Telephone  
(214) 999-3623 – Facsimile